

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2016

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.660 and 661 of 2016

V.Manikandan .. Petitioner in WP.No.660/2016

V.Ramesh .. Petitioner in WP.No.661/2016

Vs

- 1.The Regional Transport Officer,
Thiruppur (North)
Thiruppur.
- 2.The Inspector of Police,
Thiruppur South Police Station,
Thiruppur. .. Respondents in WP.No.660/2016
- 1.The Regional Transport Officer,
Tharapuram, Tiruppur.
- 2.The Inspector of Police,
Udumalpet,
Tiruppur. .. Respondents in WP.No.661/2016

Writ Petitions filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus to direct the first respondent to return the petitioners' driving licence bearing DL.Nos.TN 39 20030008435 and TN 60 20070002966 which are valid upto 4.6.2018 and 12.8.2016 respectively forthwith.

For petitioners : Mr.A.Ganesan

For respondents : Mr.M.S.Ramesh, AGP

COMMON ORDER

By consent, both the writ petitions are taken up for final disposal.

2.The petitioners have filed these writ petitions seeking a direction to the respective first respondent to return their original Driving Licence forthwith.

3.According to the petitioners, they are working as drivers in the Tamil Nadu State Transport Corporation,

Thiruppur Division. On 23.12.2015 at about 09.20 pm, while the petitioner in WP.No.660/2016 was driving a vehicle bearing Registration No.TN-38 N 2512, an accident occurred at Thiruppur old bus stand, due to which, one person sustained grievous injuries and died in the hospital. Similarly, when the petitioner in WP.No.661/2016 was driving a vehicle bearing Registration No.TN-38 N 2099 on 16.12.2015, an accident occurred near Udumalpet burial ground, due to which, one person died. Thereafter, criminal cases in FIR Nos.1087/2015 and 907/2015 were registered against the petitioners for the offences under sections 279, 304 and 304 A IPC and the petitioners were arrested and released on bail. Subsequently, the licenses of the petitioners were impounded by the second respondent without following the procedures contemplated under Section 19(1)(c) of the Motor Vehicles Act and handed over the same to the first respondent for cancellation. Hence, the petitioners are before this court with these writ petitions for the above stated relief.

4.The learned counsel for the petitioners submitted that in identical circumstances, this Court in W.P.No.27103 of 2014 dated 13.10.2014 (Mani vs. Regional Transport Officer, Erode), has passed the following order:

"6. The issue involved in this Writ Petition is covered by the decision of this Court in a similar writ petition in W.P.(MD) No.16806 of 2013 dated 22.10.2013, wherein this Court has held as follow:

"7. In view of the said conclusion, I hold that the action of the respondent in retaining the license is illegal. At the same time, in the present case, license was seized by the police, it is for the licensing authority to return the license to the police investigating the criminal case forthwith. On getting the driving license of the petitioner, the investigating officer shall issue acknowledgment, as provided in sub-section 3 of Section 206 of the Motor Vehicles Act and then produce the license before the jurisdictional Magistrate. The jurisdictional Magistrate shall thereafter return the license to the petitioner, as provided in Section 206(1) of the Motor Vehicles Act. On such return of

the license to the petitioner, the petitioner shall execute a bond to the satisfaction of the jurisdictional Magistrate undertaking to produce the license, as and when required by the Court.

7. Therefore, this Writ Petition is allowed. The 1st respondent is directed to return the driving license to the Investigation Officer/2nd respondent in Crime No.116 of 2014 on the file of the 2nd respondent, who shall, in turn issue an acknowledgment to the petitioner and then produce the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206(1) of the MV Act and return the license to the petitioner."

5.The learned counsel for the petitioners further submitted that in a similar case in P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul (2010 Writ L.R. 100), a Division Bench of Madurai Bench of this Court directed the respondent therein to return the driving licence to the appellant therein. The learned counsel also submitted that in yet another case in S.Duraivelu Vs. The Regional Transport Officer, West Tambaram, Chennai and Others (2013 Writ L.R. 843), this Court has followed the decision of the Division Bench and directed the respondents 1 and 2 therein to release the license of the petitioner therein, after removing the endorsement "suspended".

6.The learned Additional Government Pleader appearing for the respondents fairly submitted that the issue involved in the present writ petitions is covered by the above said orders of this Court.

7.This Court has considered the submissions made by the learned counsel on either side. In P.Sethuram's case (cited supra), the Division Bench has categorically held that the pendency of a criminal case would not give jurisdiction to the authority to cancel the licence and the authority has to wait for the outcome of the criminal case.

8.In view of the above, both the writ petitions are disposed of with a direction to the respective first respondent to return the driving licence of the petitioners to the Investigation Officer, who in turn, shall issue acknowledgement to the petitioners and then

produce the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206(1) of the Motor Vehicles Act and return the license to the petitioners. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

- 1.The Regional Transport Officer,
Thiruppur (North)
Thiruppur.
- 2.The Inspector of Police,
Thiruppur South Police Station,
Thiruppur.
- 3.The Regional Transport Officer,
Tharapuram, Tiruppur.
- 4.The Inspector of Police,
Udumalpet,
Tiruppur.

- 1 cc to Spl.G.P. Sr. 1904
1 cc to Government Pleader, Sr. 1791
2 ccs to Mr.A. Ganesan, advocate, sr. 1291, 1292

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W.P.Nos.660 and 661 of 2016

RV (CO)
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